

September 30, 2013

Via Email

Mr. Patrick J. Lehman, P.E.,
Executive Director
Peace River Manasota Regional
Water Supply Authority
9415 Town Center Parkway
Lakewood Ranch, FL 34202

Re: **PRMRWSA Oct. 2, 2013 Workshop
1991 Rebuild Cost Allocation**

Dear Pat,

Thank you again for hosting the meeting of administrators and attorneys held at your office on September 13, 2013. I think everyone was well-served by the frank and open discussion regarding the 1991 Peace River Facility Rebuild and options for allocating project costs.

At the meeting, the Authority staff presented a cost allocation option for consideration by the participants. On its face, this proposal would allocate the \$14,753,613 total project costs to Charlotte, DeSoto and Sarasota Counties and the City of North Port as follows:

Contributor	Estimated Cost	Percentage
Charlotte County	\$11,682,942	79.19%
DeSoto County	\$294,068	1.99%
Sarasota County	\$1,604,492	10.88%
North Port	\$1,172,110	7.94%
TOTAL	\$14,753,613	100.00

As I understand, the Authority staff arrived at this breakdown by designating \$2,248,451 as renewal and replacement costs and \$12,505,162 as capital costs. The renewal and replacement costs were allocated among the four contract customers under the common rate formula and the capital costs were allocated among the four contract customers based on the Authority staff's determination as to which portions of the 1991 Rebuild benefit the original 1991 Peace River Facility, the PRO and the REP.

In order to pay the total project costs, the Authority staff proposes re-allocating \$10,760,238 from the CIP Fund, \$2,248,451 from the Renewal and Replacement Fund and \$1,744,925 from the General Fund. The CIP funds to be allocated to this Project represent

excess construction funds remaining from the Authority's 2010 bond issues for the REP project and transmission lines and the cash contribution-in-aid of construction made by Charlotte in support of the REP Project. From the CIP Fund, the Authority would redirect \$2,255,783 attributable to Charlotte County, \$67,151 attributable to DeSoto County, \$5,116,756 attributable to Sarasota County and \$3,850,528 attributable to the City of North Port to the 1991 Peace River Facility Rebuild. Since these CIP fund contributions do not match the cost allocation percentages proposed by Authority staff, the annual base rate charge for the remaining term of the Authority's bond issue would be modified to increase the debt service payments by Charlotte County and DeSoto County and to decrease the debt service payments by Sarasota County and the City of North Port until the specified cost allocation percentages are achieved. In the case of Charlotte County, this proposal would require our utility customers to pay \$7,191,438 of additional debt service over this period of time to reimburse Sarasota County's and North Port's CIP fund transfers.

During the past several weeks we have discussed this proposal internally and conferred with our legal and financial consultants. Based on that review we have several concerns with the proposal. While we believe the Authority staff proposal was well-intentioned, there are several aspects of the proposal that in our opinion will violate the Second Amended Interlocal Agreement Creating the Peace River/Manasota Regional Water Supply Authority and the Peace River/Manasota Regional Water Supply Authority Master Water Supply Contract.

First, the portion of the total project costs that do not constitute renewal and replacement costs are not authorized under the Master Water Supply Contract. They are excluded from renewal and replacement cost under that portion of Section 1.36, which states "Renewal and Replacement Costs do not include "costs associated with the reconstruction of any major components of the Authority Water Supply Facilities" and they do not fall under any of the other cost components of the Base Rate charge according to Section 1.6. Therefore, they cannot legally be recouped through the Authority's water rate.

Second, the Authority is not legally authorized under the Master Water Supply Contract to redirect Charlotte County's \$2,255,783 contribution-in-aid of construction for its share of the REP, which remains in the CIP fund. This contribution was made under Section 16.2, which states, "Each Customer shall have the option to issue their own debt or pay with its available money with respect to its portion of **any new Authority Water Supply Source....** To the extent not inconsistent with the Financing Documents, **the Base Rate Charge for a Customer who issues its own debt or pays in advance for any such new Water Supply Source (including the REP) shall be adjusted to remove that Customer's Debt Service Costs attributed to the Customer's Water Allocation corresponding to the payment by the Customer for that new Water Supply Source or expansion.**" (Emphasis added). Clearly, the 1991 Peace River Facility Project is not a "new Authority Water Supply Source" and Charlotte's advance payment of the capital cost cannot result in an increase in Charlotte County's debt service costs, as would be the case under the Authority staff proposal. To re-

apply this money to an entirely different project without Charlotte County's permission would constitute the misappropriation of funds.

Third, the Authority staff proposal is contrary to the Second Amended Interlocal Agreement. In essence, the proposal would increase the debt service component of Charlotte County's base rate charge to pay back \$7,191,433 of the Authority's 2010 Bonds attributable to Sarasota County and North Port. However, Charlotte County never consented to the Authority borrowing money for the purpose of paying the capital costs attributable to Charlotte County's portion of the REP. As you recall, Charlotte County opted to make a contribution-in-aid of construction to the Authority pursuant to Section 16.2 of the Master Water Supply Contract. According to Section 5.8 of the Second Amended Interlocal Agreement, the Authority's power to borrow money or issue water revenue bonds is limited to only those parties who voluntarily consented to pay back any borrowed moneys. Charlotte County has not consented to pay back these funds.

We are bringing these concerns to your attention because should the Authority proceed to implement this proposal through a rate amendment, Charlotte County would in the opinion of our attorneys be legally prohibited from paying the increased base rate charge required to reimburse the CIP Fund reimbursement re-allocation. This means the proposed re-allocation of CIP funds would not be reimbursed by Charlotte County. Thus, Sarasota County and North Port would be effectively deprived of \$7,191,438 of CIP funds, which could otherwise be used to reduce their debt service payments under the 2010 bonds or used for other lawful purposes for their financial benefit.

We have prepared the following table to illustrate the consequences of this decision should Charlotte County not be legally required to reimburse the \$7,191,438 of CIP Funds:

Contributor	Estimated Cost	Percentage
Charlotte County	\$4,491,505	30.44%
DeSoto County	\$148,944	1.00%
Sarasota County	\$6,465,700	43.83%
North Port	\$3,647,464	24.73%
TOTAL	\$14,753,613	100.00

As you can see, this would increase Sarasota County's and North Port's cost allocations by 3-4 times.

Charlotte County continues to support the 1991 Rebuild Project. However, we believe the best option to fund this project would be for the four customers to approve a simple agreement stating that for purposes of this one project the costs do not constitute reconstruction of major components of the Authority Water Supply Facilities, which would make them legitimate renewal and replacement costs under the Master Water Supply Contract. Under this scenario, the \$14,753,613 total project costs would be allocated under the common rate as follows:

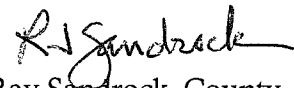
Contributor	Estimated Cost	Percentage
Charlotte County	\$7,264,680	49.24%
DeSoto County	\$303,924	2.06%
Sarasota County	\$5,966,361	40.44%
North Port	\$1,218,648	8.26%
TOTAL	\$14,753,613	100.00

On its face this cost allocation would not appear as favorable to Sarasota County as the Authority staff proposal. However, our suggestion does not rely on the risky proposition that Charlotte County can be legally compelled to reimburse Sarasota County's share of the CIP fund through an increased debt service charge in the base rate through a simple rate resolution. If it turns out that Charlotte County is not required to reimburse the CIP fund, then Sarasota County's cost allocation would increase from 10.88% to 40.44%. At that point there would be no recourse as the project will have been completed and the money spent.

In conclusion, Charlotte County remains committed to finding a fair and equitable solution for funding the 1991 Peace River Facility Project. However, whatever solution is developed must be legally sound and compliant with the underlying contracts. Unfortunately, in our opinion, the Authority staff proposal is not consistent with these principles. Furthermore, any attempt to implement this proposal would in our opinion result in substantial negative financial impacts to the Authority's customers because of Charlotte County's inability to pay the CIP Fund reimbursement re-allocation.

Sincerely,

Charlotte County, Florida



Ray Sandrock, County Administrator

cc: Authority Board of Directors
Doug Manson, Esq.
Charlotte County BOCC
Janette S. Knowlton, Esq., Charlotte County
Ed Hunzeker, Manatee County
Sarah Schenk, Esq., Manatee County
Manatee County BOCC
Randall Reid, Sarasota County
Stephen E. DeMarsh, Esq., Sarasota County
Sarasota County BOCC
C. Guy Maxcy, Desoto County
Donald D. Conn, Esq., DeSoto County
DeSoto County BOCC
Jonathan Lewis, City of North Port
Sarah Blackwell, Esq. City of North Port
North Port Board of City Commissioners